

¹ The Court notes that this letter was improperly filed as a “Letter Motion” in violation of this Court’s Individual Practices (paragraph 1.B).

Court addressed and rejected “respondent’s argument that there is any need for petitioner to amend the petition in order to raise the claims set forth in his 440.10 motion.” May 24 Order at 2. Yet, in the new letter submitted, respondent again asserts that “Petitioner did not advance the so-called ‘treaty’ argument in his habeas petition, and at this point the claim/s on this subject would be untimely,” because, “the petition could not be amended now to include these untimely ‘treaty’ claims.” June 30 Letter at 2. This argument, however, was squarely rejected by the Court in the May 24 Order — a fact that respondent blithely ignores. Moreover, respondent presents no arguments as to why the Court should reconsider its decision on this question or why a request to reconsider that decision should be deemed timely.

If, in fact, respondent wishes to oppose petitioner’s request for a stay, the Court directs respondent to submit a response fully addressing the Rhines standard by July 14, 2021, and all related issues. Such a response must be made in the form of a memorandum of law that complies with Local Civil Rule 7.1(a)(2) and paragraph 2.D of the Court’s Individual Practices.

The Court further directs respondent to investigate whether plaintiff has in fact refiled his 440.10 motion and to address the status of that motion in the memorandum of law.

If respondent fails to file a proper memorandum of law that provides in-depth legal argument with citation to case law, the stay may be granted as unopposed.

SO ORDERED.

Dated: July 1, 2021
New York, New York



GABRIEL W. CORENSTEIN
United States Magistrate Judge

Copy sent to petitioner by Chambers at address on docket sheet